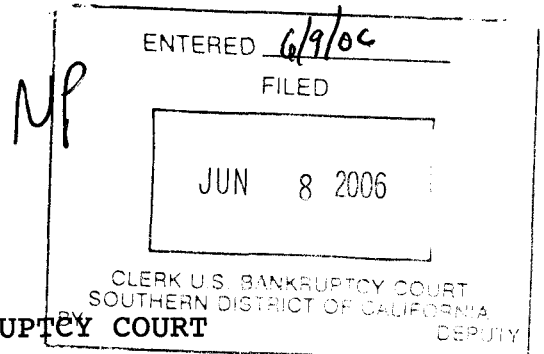


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2 **NOT FOR PUBLICATION**



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re

ANTOINE MITCHELL,

Debtor.

Bankruptcy No. 06-01345-JM7

FINDINGS IN SUPPORT OF ORDER
DENYING DEBTOR'S MOTION FOR
EXEMPTION FROM CREDIT COUNSELING
AND APPLICATION FOR WAIVER OF
FILING FEE

After review of the Debtor's Motion for Exemption from Credit Counseling ("Motion"), Application for Waiver of Chapter 7 Filing Fee ("Application"), and the Schedules and Statement of Affairs filed with the Chapter 7 Petition in this case, the Court finds that the Debtor has not established cause to grant the relief requested.

The Motion is not well taken. The Bankruptcy Code allows for an exemption from the credit counseling requirement if the Debtor is unable to complete the requirement because of incapacity. 11 U.S.C. §109(h)(4). The Debtor claims that his incarceration falls within that category. Since credit counseling is available through the internet or by telephone and the Debtor has not established that he lacks access to those avenues, the Court cannot find that

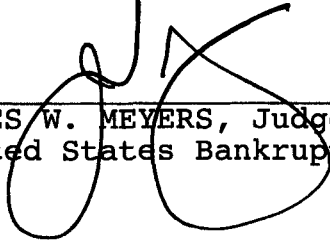
1 incarceration falls within the definition of incapacity to relieve the
2 Debtor of the obligation to obtain credit counseling.

3 As to the waiver of the filing fee, there is no indication in the
4 file that the Application was served on the U.S. Trustee or the
5 Chapter 7 Trustee, so the Application will be denied.

6 Further, the Court notes that the Debtor's Petition and Schedules
7 indicate that he has no assets and no debts. Without debts, there is
8 no relief available through a discharge. Without assets, there is
9 nothing for a Trustee to administer. With no purpose to be served by
10 the Chapter 7 filing, there is no reason to burden the bankruptcy
11 system with a meaningless case.

12 The Court will enter a separate Order denying the Debtor's
13 requests based on these Findings.

14 Dated: JUN 8 2006

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16 JAMES W. MEYERS, Judge
17 United States Bankruptcy Court
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